

To: Somerville Board of Zoning Appeals

From: David M Fenchel RA, Traverse Architects LLC,
785 Cambridge Street, Cambridge, MA 02141
David Mlaver and Esther Silberstein, Homeowner-Residents,
29 Lake Street #2, Somerville, MA 02143

Re: Narrative in support of Hardship Variance for 29 Lake Street (P&Z 23-033)

INTRODUCTION

We (David and Esther) purchased the two-family home at 29 Lake Street in April, 2021, and reside in its upper unit. The family that rents our lower unit have lived there for almost twenty years, and we maintain the rent at a below-market rate to ensure that they can stay for as long as they desire. Our house was originally constructed in 1890; it is semi-detached (sharing its east wall with 27 Lake Street) and includes a later-constructed rear addition; the house is 2.5 stories, and the rear addition is two stories. The previous owners (three siblings) grew up in this home before they inherited it from their parents and subdivided it into two rental units. We are expecting our first child this Fall, and we are hoping to raise our family here too. To make that practical, we need to expand our third floor over the rear addition to make room for, *e.g.*, a bathroom on the third floor (where the bedrooms are). However, the Somerville Zoning Ordinance (“SZO”) limits the height of rear additions to two stories for houses, like ours, that are in the Neighborhood Residence (NR) zone. (SZO § 3.1.13.p). In keeping with the expressed intent of the SZO, we seek relief from this limit so that we can make our house more suitable for raising our family without disturbing our downstairs neighbors.

THE PROJECT AND RELIEF REQUESTED

The property is located in the NR District, and it's a Semi-Detached building type. Our building, the left side (west), is a 2-family and will remain so.

We are requesting a modest addition to add a bedroom and bathrooms to the upper level dwelling unit. We propose to achieve this by extending the existing floor-plate overtop the flat roof of an existing 2-story rear addition, similar to several neighboring buildings.

Zoning relief is necessary because the proposed addition adds a story, making it 3-stories, and rear additions are limited to two stories maximum per SZO 3.1.13.p.

The proposed addition maintains the principal massing and is in keeping with the scale of the neighborhood. The proposed work can be achieved with minimal selective demolition to the rear face of the main roof, and removing the rear dormer.

The proposed addition will increase the gross floor area of the entire building by 319 SF, from 2,483 SF to 2,802 SF. It does not change the Use, it does not change the number of residential units (2), it does not change existing parking (none), and it does not change any public right-of-way. It also does not negatively impact neighbors, their privacy, access to daylight and fresh air, nor does it impede views, cast shadows or remove trees.

THE CRITERIA FOR A HARDSHIP VARIANCE ARE SATISFIED

Our proposed project meets all the criteria for granting a hardship variance, which are:

- a) Special circumstances exist relating to the soil conditions, shape, or topography of a parcel of land or the unusual character of an existing structure but not affecting generally the zoning district in which the land or structure is located;
- b) Literal enforcement of the provision of this Ordinance for the district where the subject land or structure is located would involve substantial hardship, financial or otherwise, to the petitioner or appellant due to said special circumstances; and
- c) Desirable relief could be granted without causing substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in this Ordinance or the Ordinance in general.

(SZO § 15.3.e.i).

A. Special Circumstances Exist Relating to the Parcel and Existing Structure.

The unique nature of our residence arises from its history. The previous owners were three siblings who were raised at 29 Lake Street and inherited the house from their parents while it was still a single-family home. They converted the house into two rental units. At present, the upper unit is not well-suited for our growing family: the two bedrooms are on the third floor, but there is only one bathroom, and it is on the main (second) floor. The arrangement is impractical when caring for small children. We need to expand our residence to fit our family's needs, and we are unwilling to disturb our tenants' unit.

The shape and narrowness of our parcel of land inhibits expansion of the existing structure. The width of this parcel tapers from 33.08' at the street to a narrow 19.58' in the rear, which is 7.42' less than the minimum lot width for the district. This narrow, wedge-shaped lot prevents expansion of the upper level unit. For example, per SZO 3.1.13.o, an allowable side wing of the same height as the principal building is just not possible because of the location of the existing structure, and the narrowness and shape of the lot.

B. Literal Enforcement of SZO § 3.1.13.p Would Involve Substantial Hardship.

Literal enforcement of SZO § 3.3.13.p would cause us substantial hardship. The organization of the existing structure on the parcel prevents expansion of the upper unit due to its location on the lot. It is unfeasible to relocate the structure, and thus improve its long-term livability. Thus, without the requested variance, we would be forced to choose between two undesirable options: either convert the house back to a single-family home or look for a new place to live.

Our tenants are long-term renters who have been living in the downstairs unit since they immigrated to America almost twenty years ago. They raised their own two sons in the unit. After we made improvements to the unit last year, our tenants upgraded their furniture and expressed their intent to remain as residents. We too want them to remain as residents,

notwithstanding the below-market rent compared to other units in Union Square. Converting the residence back to a single-family home would involve substantial hardship as it would likely result in our tenants being displaced—contrary to the SZO’s stated goals (see below, Section C).

Our remaining option would be to move because the second-floor unit in its current state will not be suitable for our family in the near future. We moved to Somerville and Union Square two years ago because we love being a part of this community and neighborhood. It would create enormous hardship if we had to leave just when our family was starting to grow.

C. The Requested Relief Would Not Be Detrimental to the Public Good and is Consistent with the Intent and Purpose of the SZO.

1. The proposed addition would not be detrimental to the public good.

Approval of the requested variance is appropriate as it would not be detrimental to the public good. The proposed addition maintains the principal massing, is consistent with the integrity of the neighborhood, and does not negatively impact neighbors. In particular, the proposed work:

- Does not negatively impact the neighbors’ privacy or access to daylight and fresh air, nor does it impede views, cast shadows, or remove trees.
- Does not negatively impact the neighborhood as it does not change the density, number of residential units (2), existing parking (none), or any public right-of-way.
- It is also consistent with the overall style, fenestration, and general massing of the neighboring houses [see Exhibit A, Neighbor Precedent].

2. The proposed addition is consistent with the intent and purpose of the SZO.

The requested hardship variance is also consistent with the intent and purpose of the SZO as expressed generally (*see generally* § 1.4) and in the specific context of the Neighborhood Residence (NR) district (*see generally* §§ 3.2, 3.3). The SZO states that its intent is “[t]o *permit* development and redevelopment according to plans that are collaboratively developed with the Somerville community.” (SZO § 1.4.a.ii (emphasis added)). That intent is restated with respect to the NR district. (*See* SZO § 3.3.a (“To *permit* development...”), § 3.3.b (“To *permit* contextual modifications...”)) (emphases added)). Because the SZO focuses on *permitting* development and contextual modifications, it should be interpreted to allow such activities where possible.

a. Approval of the requested variance would support our growing family and prevent displacement.

The SZO states that its general intent is “[t]o implement the Comprehensive Plan of the City of Somerville” (SZO § 1.4.a.i; *see also* § 3.2.a (stating intent “[t]o implement the objectives of the comprehensive plan of the City of Somerville”). The Comprehensive Plan’s “Goals and Takeaways” include “[s]upport[ing] families and promot[ing] their longevity in Somerville.” The NR district specifically focuses on accommodating growing families, including in semi-attached houses. (SZO § 3.3.d (listing purpose “[t]o create dwelling unit types, size, and

bedroom counts ideal for larger households...”). Our plan to increase the bedrooms and bathrooms in the upper unit would directly support these goals and would enable us to improve our residence to accommodate our family’s needs.

The Comprehensive Plan also states that its “Goals and Takeaways” include “[f]ight[ing] displacement,” (SomerVision 2040 at p. 37). Similarly, the SZO lists among its general goals “provid[ing] a range of housing types, unit sizes, and price points to accommodate the diverse household sizes and life stage of Somerville residents at all income levels” and “provid[ing] and protecting housing that is affordable to households with low and moderate incomes.” (SZO §§ 1.4.d.iii and 1.4.d.iv). As discussed above, our current plan will allow us to continue to maintain the first floor as a rental unit for our moderate-income tenants at a rate that is significantly below market for the surrounding neighborhood.

b. Approval of the requested variance would preserve the existing structure and maintain the character of the neighborhood.

The requested relief is also consistent with the SZO’s general intent to “preserve and enhance the existing character of Somerville’s traditional housing and respect existing built form and development patterns,” (SZO § 1.4.d.v), and the intent of the NR district to “conserve already established areas of ... semi-detached residential buildings” (SZO § 3.2(b)) by “permit[ting] contextual modifications to existing ... semi-detached residential building” (SZO § 3.3.b). Our proposed addition would maintain 29 Lake Street’s current floorplate and will not impact the principal massing and is consistent with the overall scale and character of the neighborhood. As depicted in Exhibit A, most of the houses on our block and the surrounding blocks have three-story rear additions, specifically including 15, 23-25 and 31 Lake Street.

c. Approval of the requested variance would be equitable.

Finally, the requested relief is consistent with the SZO’s general intent “to *equitably* balance the regulation of real property with the interest of the community as a whole.” (SZO § 1.4.b.i). As explained above, most of the houses on Lake Street (and the intersecting streets) have three-story rear additions. Proposals to expand the third stories and grant other zoning relief at 15 Lake Street and 31 Lake Street were approved in the last several years alone. It would provide equitable relief to allow our home to be similarly expanded to accommodate our family’s needs.

CONCLUSION

For the reasons stated above, a hardship variance that allows the construction of a third story on the pre-existing floor plate of the rear addition is both necessary and appropriate. We thank the Board for its consideration and respectfully request that it approve the variance.